

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND COMPOUNDING)
PHARMACY, INC. PRODUCTS LIABILITY)
LITIGATION)

This Document Relates to:)

MDL No. 1:13-md-2419-RWZ)

1:14-cv-12941-RWZ: Brown v. Insight Health Corp., *et al.*)

**INSIGHT HEALTH CORP.'S ANSWER TO PETITION FOR FINAL
APPROVAL OF DISTRIBUTIONS TO STATUTORY BENEFICIARIES OF
VIRGINIA WRONGFUL DEATH CLAIM PURSUANT TO VA. CODE § 8.01-55**

Respondent, Insight Health Corp. (“Respondent”), by counsel, responds to the Petition for Final Approval of Distribution to Statutory Beneficiaries of Virginia Wrongful Death Claim Pursuant to Va. Code § 8.01-55 (Sept. 16, 2016) (D.E. 3095) (“Petition”), as follows:

1. The Parties entered a “Settlement and Release Agreement” (“Agreement”) on February 12, 2015, which incorporated “First Amended Insight Claims Resolution Facility Procedures” (“Procedures”).

2. By order dated July 9, 2015, in the above-styled case, this Court approved the Agreement and the Procedures, and found the resolution of this wrongful death claim and the allocation process in the Procedures governing this claim to be fair and reasonable under the circumstances of the decedent’s death and in the best interests of the decedent’s estate and the statutory beneficiaries. *See* Order (July 9, 2015) (D.E. 2110) (approving settlement in *Brown v. Insight Health Corp., et al.* (1:14-cv-12941-RWZ)).

3. The Court’s Order of July 9, 2015, further instructed the Parties to present a “Future Distribution Order” to the Court for consideration before any distribution could be made to the decedent’s statutory beneficiaries from their respective shares of the gross amount

attributed to them under the Procedures. *Id.* at 4. The Petition now before the Court is Petitioners' request for entry of the Future Distribution Order in this case as directed by the Court through its order of July 9, 2015.

4. On January 13, 2016, the Parties filed a Joint Motion to Confirm Satisfaction of Conditions to Global Settlement Agreement of Virginia Cases (Jan. 13, 2016) (D.E. 2562). The Court entered an Order on the Parties' Joint Motion to Confirm Satisfaction of Conditions to Global Settlement finding that the terms and conditions set forth in the Agreement had been satisfied. *See* D.E. 2583 (Jan. 13, 2016) (noting endorsement and entry of order granting Motion for Order (D.E. 2562)).

5. Petitioners, Patricia S. Brown, John D. Spicer, and Jenae S. Patsell, filed their Petition on September 16, 2016. Significantly, Petitioners state that:

The only known lien associated with the settlement proceeds is a Medicare Lien ("Medical Lien"). The Petitioners acknowledge and agree that the Medicare Lien should be paid from the settlement proceeds. The Petitioners/Statutory Beneficiaries have received a Final Payment Letter from the Center for Medicare and Medicaid Services ("CMS"), which is attached hereto as Exhibit 3 (the "Final Lien Amount").

Pet., ¶ 5. The "Final Payment Letter" asserts a lien of \$145.76. Ex. 3 to Pet., Final Payment Letter, 1 (Sept. 9, 2016) (D.E. 3095-3).

6. In reliance on Petitioner's representations in the Petition, including that the \$145.76 Medicare lien is the only known lien on the settlement proceeds, Respondent does not oppose the Petition or object to Petitioner's request that the Court approve the proposed distributions. Respondent joins in Petitioner's request that the Court dismiss this action with prejudice.

7. Respondent incorporates by reference Insight Health Corp.'s Answer to Petition for Final Approval of Compromise Settlement of Virginia Wrongful Death Claim Pursuant to

Va. Code § 8.01-55 (July 3, 2015) (D.E. 2044), which Insight filed in response to the initial Petition for Approval of Compromise Settlement of Virginia Wrongful Death Claim Pursuant to Va. Code § 8.01-55 (June 26, 2015) (D.E. 2020).

WHEREFORE, Respondent, Insight Health Corp., by counsel, respectfully requests that the Court enter an order approving the Petition, granting the proposed distributions therein and dismissing this case with prejudice.

Respectfully Submitted

Date: September 26, 2016

INSIGHT HEALTH CORP.

By: /s/ Leo J.M. Boyd
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CERTIFICATE OF SERVICE

I certify that, on September 26, 2016, this document was filed through the CM/ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Leo J.M. Boyd
Leo J.M. Boyd

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